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OFFICE OF THE
REGIONAL ADMINISTRATOR

October 16, 2015

Colonel Christopher Barron
U.S. Army Corps of Engineers
New England District
696 Virginia Road
Concord, MA 01742

RE: Long Island Sound Dredged Material Management Plan Draft Programmatic Environmental Impact Statement, CEQ #20150231

Dear Colonel Barron:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, we have reviewed the U. S. Army Corps of Engineers, New England District (Corps) Draft Programmatic Environmental Impact Statement (DPEIS) for the Long Island Sound Dredged Material Management Plan (DMMP). The DPEIS was prepared as part of the process of developing the DMMP in accordance with restrictions specified by the United States Environmental Protection Agency (EPA) in 40 C.F.R. § 228.15(b)(4). 70 Fed. Reg. 32498, 32518 (June 3, 2005) (Final Rule, Designation of Dredged Material Disposal Sites in Central and Western Long Island Sound, CT). The DMMP includes a thirty year estimate of dredging needs and dredged material disposal capacity needs for dredging projects in the Connecticut, New York and Rhode Island region. EPA Regions 1 and 2 participated in the preparation of the DPEIS/DMMP by the Corps through involvement in a technical workgroup, steering committee, project delivery team and regional dredging team. EPA also participated in the public hearings, workshops, and public information meetings related to the DMMP.

The DPEIS describes the environment of Long Island Sound, projects future dredging needs, and generally assesses the potential impacts of various dredged material management alternatives including: open water disposal, confined aquatic disposal (CAD), confined disposal facilities (CDFs) in island/shoreline/upland areas, beneficial use, and innovative treatment. The Corps has made it clear that the DPEIS is not intended to be used as a decision-making document for the purposes of dredged material disposal. For example, the Corps states in the DPEIS that the DMMP "...is an umbrella document that considers generic impacts of options." Furthermore, the Corps notes that additional project-specific and alternatives-focused NEPA analyses will be prepared that will build upon the general information presented in the DPEIS. EPA agrees and underscores that the level of general information provided in the DPEIS does not obviate the need either for future project-specific consideration of alternatives, impacts and mitigation in the NEPA context, or for compliance with the regulatory review process where the requirements of other statutes, such as the Marine Protection, Research, and Sanctuaries Act (MPRSA), Clean

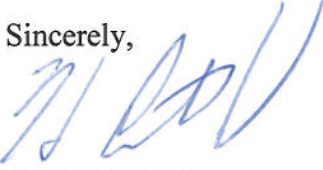
Water Act (CWA), Rivers and Harbors Act, National Historic Preservation Act, and the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), continue to apply.

EPA supports the overall goal of the DMMP which "...is to ensure that dredging needs for Corps Navigation Projects are met and that proper planning may, over time and where practicable, reduce or eliminate the need for open-water placement in the Sound." In addition, we hope that the DMMP will become a tool that helps to increase opportunities to use dredged material beneficially. EPA reviewed the DPEIS with a focus on whether or not the DMMP will help guide management actions to achieve these goals.

The DPEIS does not identify a preferred alternative or preferred disposal alternatives for the various future potential dredging projects identified in the Long Island Sound region. This is left to future project-specific evaluations. Instead, Chapter 7 provides a general ranking/screening of the top ten alternative sites for particular dredging centers. The rankings are based on existing information (where available) regarding capacity, distance from the area of dredging to the disposal areas, and environmental impacts. In addition to the ranking based on these scoring criteria, the tables also include a ranking by unit cost per cubic yard of material to be disposed of. While these rankings are helpful as general guides, we continue to emphasize the importance of and need for project-specific information to support decision-making developed through future NEPA and permitting analyses. These future analyses will be essential in all cases, and particularly when controversial sites like the New Haven Morris Cove borrow pit are under consideration in the future. The rankings should be used to help guide future efforts, but they are not by themselves based on enough specific/detailed information to be used for decision-making purposes.

EPA appreciates the opportunity to offer comments on the DPEIS and encourages the Corps to work closely with EPA and other interested federal and state agencies and other stakeholders to develop strategies to effectively address the issues identified in this letter and attachment. Based on comments raised in this document we have rated the DPEIS EC-2 in accordance with EPA's national rating system, a description of which is attached to this letter. We believe the Corps can address these comments in the FPEIS for this project. Please feel free to contact Timothy Timmermann of the Office of Environmental Review at 617/918-1025 to discuss these comments.

Sincerely,



Curtis H. Spalding
Regional Administrator

Attachment

Summary of Rating Definitions and Follow-up Action

Environmental Impact of the Action

LO--Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC--Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO--Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU--Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

Adequacy of the Impact Statement

Category 1--Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2--Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3--Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

Additional Detailed Comments on the Draft Programmatic Environmental Impact Statement (DPEIS) for the Long Island Sound Dredged Material Management Plan

General Comments

Page E-3: fourth paragraph. Language provided throughout the DPEIS concludes that, "...decision-makers will be able to evaluate different dredged material placement options with full knowledge of potential environmental consequences." We would offer that the general nature of the DPEIS characterization of impacts will limit the use of the DPEIS by decision-makers. Instead, the DPEIS can be used to help guide future NEPA reviews and permitting considerations where site specific impact characterization is likely to be necessary to inform decisions regarding implementation of any given disposal option for a project. We strongly recommend that the FPEIS be revised throughout to clarify/remove this discrepancy.

Issue Identification Chapter 7, page 7-5 in Table 7-2: The issue identification section of Chapter 7 could have gone further to respond to identified issues to the benefit of future reviews of specific projects. A more detailed response could have been provided concerning the management and monitoring efforts at open water sites and the fact that each project is evaluated on an individual basis before it could potentially be determined suitable for open water disposal. The response provided in the DPEIS does not address, summarize or restate the processes. This is an opportunity to remind reviewers that there is a rigorous regulatory process in place for each project and before any project is approved for disposal. We recommend that the FPEIS include a more complete response to these issues.

Specific Comments

Comment 1. Chapter 5, Page 5-29 et seq. In the discussion of the physical impacts of the use of "clean fill" at brownfield sites, the text should indicate that "clean" may require removing any salt from the materials before they are used for fill. As noted elsewhere, Long Island lies atop a sole source aquifer, and contamination of a drinking water source by salt should be avoided.

Comment 2. Chapter 5, Page 5-30, 5-31. The text states: "Where wetlands or critical habitats are located within or near a Brownfield redevelopment site, these resources could potentially be buried or destroyed. However, a Brownfield redevelopment project represents the opportunity to improve previously degraded environmental resources by removing invasive species, reconstructing wetland hydrology, reintroducing native vegetation, and improving sediment and soil quality." The nexus between reuse of dredged material, brownfields sites and natural resource restoration is not clear. The availability of clean fill is not likely to produce more brownfield sites for reuse. Also, brownfield sites in the region have not typically been restored as natural habitats, such as parks or recreational areas. It is probably supportable to conclude that the availability of clean fill may reduce the cost of remediating contaminated brownfields sites, but without identifying specific proposals, it is a stretch to say that the availability of clean fill will result in the restoration or creation of natural resource areas or parks.

Comment 3. Chapter 5, Page 66-68. Table is mislabeled. The text says Table 5.3 but it is titled as Table 5.3 and Table 6.3 in document.

Comment 4. Chapter 5, Page 69 Table. 5-3 Column one under Water Quality/Past Actions. The sentence "In recent years, hypoxia has been..." should be relocated to the Present Actions column.

Comment 5. Chapter 5, Page 69. Table. 5-3 Column one under Water Quality includes TMDL as an action for reducing impact but does not include other local and national efforts for reducing water quality impacts such as changes in zoning laws for land use and development, technologies such as Low Impact Development and other efforts to reduce impacts from impervious surfaces. We recommend that these actions be incorporated into the table.

Comment 6: Chapter 5, Page 5-1. This section describes the cumulative impacts from each alternative. Cumulative impacts from open water disposal are summarized as minor and temporary impacts. However, the same section, states that general impacts are addressed and more information is found in the Affected Environment section (Chapter 4). Chapter 4 states that impacts in the PEIS are discussed in a general nature. We recommend that the Corps provide more detail, such as examples from previous studies, on the determination that cumulative impacts are minor and provide references for such determinations in addition to referencing Chapter 4 of the PEIS.

Comment 7: The chapters do not include a summary section. The overall discussion in each chapter would benefit from a summary.

Comment 8: Page ES-11 Last Paragraph. We suggest adding "amended" dredged material placement to this section (meaning dredged material with cement or other additives). Amended material acts differently, and has different environmental impacts, than unamended material. We recognize that this issue is discussed later in the PEIS.

Comment 9: Page 3-30 First paragraph, 6th line. The reference should be to NYSDEC not EDC. NYSDEC sets the TAGMs.

Comment 10: Page 3-30, Third Paragraph. We recommend that the EIS make reference to the use of amended dredged material to close "orphaned" landfills that were closed under older, less protective regulations. Orphaned landfills in the NJ Meadowlands have been closed by using amended dredged material and as upland sites for material not suitable for ocean placement. (DonJon Marine)